

appeal, a date will be set by the city council for a hearing thereon, such date to be not later than 30 days after receipt of such appeal by the city secretary. After hearing all parties to the appeal, the city council may affirm, modify or reverse the action of the director in refusing such permit, but any action taken by city council must be in accordance with the provisions of this article. (Ord. No. 02-1184, § 1(Exh. A), 12-18-02)

Secs. 9-227—9-314. Reserved.

ARTICLE V. HELIPORTS AND HELISTOPS

Sec. 9-315. Definitions.

As used herein, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- (a) *Board.* The helicopter facility licensing and appeals board established in accordance with this article.
- (b) *Business activity area.* A contiguous, compact, roughly rectangular area designated by the city council containing a minimum of one square mile which contains at least 12,000,000 square feet in gross building and office structures and where ten percent or less of the land area, excluding streets, alleys or other public rights-of-way, is used as a church, school or residence. The area included within and bounded by Buffalo Bayou, Bagby, Franklin, Louisiana, Washington, Milam, North Main, Wood, North San Jacinto, Rothwell, McKee, Ruiz, Chartres as projected to Hadley, Bagby Street and Heiner Street as projected and extended to Sabine Street, is hereby designated as a business activity area.
- (c) *Church.* A building or structure which is exempt from ad valorem taxes where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction or for propagating a particular form of religious belief.
- (d) *Director.* The director of the department of public works and engineering of the city or the director's designee.
- (e) *Emergency operation.* Any operation on the roof or other portion of a building or a ground level area during emergency conditions.
- (f) *FAA.* The Federal Aviation Administration or its successor agency.
- (g) *Helicopter.* An aircraft whose support in the air is derived chiefly from the aerodynamic forces acting on one or more rotors turning about a substantially vertical axis.
- (h) *Heliport.* An area of land, water or a structural surface containing fuel facilities which is designed, used or intended to be used for the landing and takeoff of helicopters, and any appurtenant areas including buildings or other facilities such as parking, maintenance and repair facilities.
- (i) *Helistop.* A minimum facility without the logistical support provided by a heliport at which helicopters land and take off, including the touchdown area and parking and related facilities other than maintenance and repair buildings. A helistop may be at ground level or elevated on a structure.
- (j) *Hospital building.* A structure containing hospital patient bed rooms or bed wards, or both, with an occupancy capacity to house ten or more persons while admitted as inpatients of a "general hospital" or a "special hospital" as those terms are defined in section 241.003 of the Texas Health and Safety Code. In any instance in which two or more structures connected by shared or adjoining walls or connected by tunnels or fully enclosed walkways are jointly operated by or under the control of the same person as a hospital or medical complex, then each such building that meets the foregoing definition shall be deemed to be a hospital building; however, any other connected structure, whether utilized for parking, doctors or

administrative offices, laboratory facilities, outpatient facilities or any other purpose, that does not contain hospital patient bed rooms or bed wards, or both, with an occupancy of ten or more admitted inpatients shall not be deemed to be a hospital building.

- (k) *Interested party.* Any person, firm, corporation or association residing or owning property within 2,400 feet of the center of the touchdown pad of a proposed heliport or helistop.
- (l) *Medical evacuation.* Any operation where a helicopter has been authorized or directed to land to administer medical aid or perform a medical evacuation.
- (m) *Operation.* A takeoff and landing by a helicopter. A touch and go movement is counted as one operation.
- (n) *Owner.* Any person, agent, firm or corporation having a legal or equitable interest in the property.
- (o) *Plot plan.* A graphic depiction or drawing of a small planned area, either on the roof of a building or on the ground, which reflects the location of the actual landing area, markings and identification of the landing area, aircraft parking area, peripheral area, other unobstructed areas, fencing, safety barriers, screening, ingress and egress path, any proposed structures or accessory equipment, fire protection equipment, communication signs, patron and employee parking areas, maintenance and fuel area, and any other details, if any, required under the Construction Code, the Fire Code or this chapter. The scale for the plot plan map shall be not less than one inch equals 50 feet.
- (p) *Public-use heliport.* A heliport or helistop that has been designated by the city for use by the general public and is available for such use, whether owned or operated by the city or a private individual firm or corporation, provided that such individual firm or corporation has agreed to such use of his property in writing.
- (q) *Residence.* Any building or structure containing habitable rooms for nontransient occupancy, designed primarily for living, sleeping, cooking and eating, which is being used as a dwelling place for residential purposes, whether single-family or multifamily. Hotels, motels, boarding houses, nursing homes, hospitals, nursery schools and child care facilities shall not be considered residences. A structure located on a lot or tract of land used as a heliport or helistop shall not be considered a residence within the terms of this definition.
- (r) *School.* Any building or structure where persons regularly assemble for the purpose of instruction or education, together with the playgrounds, dormitories, stadia and other structures or grounds used in conjunction therewith. The definition of school shall be limited to a public or private elementary, junior high or high school.
- (s) *Site plan.* A graphic depiction or drawing of an area or space on the ground within a 2,400-foot radius from center of the touchdown pad indicating the approach and departure routes, obstructions along and adjacent to the approach-departure path, and the location of all residences, schools and churches within a radius of 750 feet of the center of the touchdown pad. The site plan map shall be at a scale no less than one inch equals 300 feet.
- (t) *Television / radio news building.* The structure that houses the central newsgathering facility of a television/radio broadcast station operating under a license granted by the Federal Communications Commission.

(Code 1968, § 9-15; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 90-635, § 20, 5-23-90; Ord. No. 91-1733, §§ 1, 2, 12-11-91; Ord. No. 93-514, § 19, 5-5-93; Ord. No. 98-613, § 21, 8-5-98; Ord. No. 02-399, § 21, 5-15-02; Ord. No. 04-1015, § 9, 9-27-04)

Sec. 9-316. Landings and takeoffs prohibited.

It shall be unlawful for any person to take off or land any helicopter or aircraft within the city at

any point, except at airports, heliports or helistops for which a license or special permit has been issued under this chapter. It shall be an affirmative defense to any prosecution under this section that the landing or takeoff prohibited by this section shall have occurred at a facility exempt under section 9-339 or as part of a medical evacuation or an emergency operation.

(Code 1968, § 9-15.1; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-317. License required.

It shall be unlawful for any person, association, firm or corporation to construct, establish, maintain or operate a heliport or helistop within the corporate limits of the city without first having obtained a license from the city, unless exempted herein.

(Code 1968, § 9-15.2; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-318. Fee; term of license; deposit.

(a) *Heliport.* The fee for a heliport license shall be \$1,500.00. Such license shall be valid for a period of six years from date of issuance unless sooner revoked or terminated.

(b) *Helistop.* The fee for a helistop license shall be \$1,250.00. Such license shall be valid for a period of six years from date of issuance, unless sooner revoked or terminated.

(c) *Inspection fee.* The fee for the annual inspection of a heliport or helistop shall be \$1,000.00 each year while the license is in effect. Such inspection shall be for the purpose of insuring compliance with the terms and conditions of the license.

(d) *Temporary license.* The fee for a temporary helistop license under section 9-322(a) shall be \$200.00. The fee for a temporary helistop license under section 9-322(b) shall be \$100.00.

(e) *Deposit for license.* Any application submitted for a heliport or helistop license, other than a temporary license, shall be accompanied by a deposit of \$500.00. Such deposit shall be nonrefundable and shall be applied to the license fee when the application for license is approved. The

effective date of the license shall be the date the application is approved for the issuance of a license.

(f) *No refund of fees.* The applicant for a license or holder of a license shall not be entitled to a refund of any fee paid where the license is revoked, any change of status occurs, or for any deposit.

(Code 1968, § 9-15.3; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-319. Application for license.

(a) *Form and contents.* An application for a heliport or helistop license, other than a temporary license, shall be submitted in such form as the director may prescribe and shall be accompanied by drawings, descriptive data and inspection reports to verify compliance with the provisions of this chapter, the Construction Code, the Fire Code, and any other applicable city, state or federal requirement. The director shall have the authority to establish minimum design standards for heliports and helistops, provided that such standards are not inconsistent with any applicable city, state or federal standards. In addition, the application shall contain the following:

- (1) A site plan.

- (2) A plot plan.
- (3) FAA letter of airspace determination.
- (4) FAA statement of no objection to approach and departure routes, if available.
- (5) Types and weights of helicopters to be used.
- (6) Number of operations daily for each type of helicopter listed.
- (7) Days and hours of operation.
- (8) Name of insurance carrier and proof of insurance as required by this chapter.
- (9) Affidavits of publication and other proof that all required notices have been given.
- (10) A photograph of the sign posted in accordance with subsection (d)(1) of this section.

(b) *Oath.* Every application for license shall be executed and verified under oath by the owner of the premises upon which the heliport or helistop is to be constructed, or the authorized lessee of such premises, that the proposed facility is authorized to be constructed or to be hereafter maintained on the premise, and shall contain the sworn affidavit of the owner or lessee that the proposed facility does not violate any deed restrictions or other similar restrictions applicable to the property.

(c) *Permission to inspect premises.* By applying for a license under this chapter, the owner or lessee specifically grants permission to the city, its duly authorized agents, officials and employees to enter upon the premises for the purpose of making all inspections required or authorized to be made under this article. A statement to this effect shall be set forth in the application form.

(d) *Public notices:*

- (1) The applicant must post a sign at the prospective location of the heliport or helistop for at least twenty (20) days before an application submitted to the director may be heard by the board. Such sign shall remain posted until such time as the license proceedings are completed. The sign shall provide adequate information as to the location of the proposed

heliport or helistop. The director may provide an example of the required sign to the applicant. The sign shall be not less than 32 square feet nor more than 40 square feet and shall be placed in a conspicuous location and in a manner calculated to give adequate public notice. This chapter constitutes complete, sufficient and independent authority for such sign to be erected and maintained and no additional sign fees or permits shall be required.

- (2) A notice of intent must be published in a daily newspaper of general circulation in the city on the same day for two consecutive weeks and at least five to ten days prior to the application filed with the director being heard by the board. The director may provide an example of the required notice to the applicant. Affidavits of publication and other proof that the notices provided for herein have been given in accordance with this subsection shall be furnished as part of the application. Failure to give notice or to provide adequate proof as provided for herein shall constitute grounds for denial of any license.

(e) *Issuance of license.* Where the applicant is in compliance with the location, noise and all other requirements of this article, the board shall issue the applicable license upon payment of the full amount of the required fee.

(f) *Terms and conditions of the license.* By applying for a license under the provisions of this article, each applicant agrees that, in the event that the license is granted, the contents of the application will become part of the license and that the license is granted subject to applicant's compliance with the terms and conditions contained in the application. The applicant further agrees that failure to comply fully with the terms and conditions of the license as granted and as from time to time altered or changed in accordance with this article, including but not limited to, failure to comply with the approach and departure routes, shall be grounds for the revocation of such license.

(Code 1968, § 9-15.4; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 02-399, § 22, 5-15-02)

Sec. 9-320. Change in operation.

(a) Any change which affects or alters the terms and conditions of a heliport or helistop license pertaining to the time of operation, the frequency of operations, the type of helicopter used in such operations or the relocation of the touchdown pad shall be submitted to the director for submission to the board for approval before such changes in the license are effective.

(b) Any changes other than those set out in subsection (a) may be approved by the director prior to their implementation by the licensee without the necessity of board action.

(c) Any application to enlarge, modify or otherwise substantially change the surface of that part of a heliport or helistop that is used or intended to be used for the landing or takeoff of a helicopter shall be submitted in writing to the director 30 days prior to the commencement of such alteration or change and shall not be commenced until written airspace determination and a letter of no objection has been obtained from the FAA, if available, and the director has been provided with a true copy of such FAA approval, if available.

(Code 1968, § 9-16; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-321. Maintenance.

All buildings, structures or ground areas used as a heliport or helistop shall be maintained in a safe and sanitary condition. All equipment or machinery required by the Construction Code or the Fire Code for a building or structure or ground level area when erected, altered or repaired, shall be maintained in good working order. The owner or operator shall be responsible for the maintenance of all buildings, structures or ground areas used as landing areas by helicopters.

(Code 1968, § 9-16.1; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 02-399, § 23, 5-15-02)

Sec. 9-322. Temporary license.

(a) A temporary license at a ground level area may be issued by the director for a construction or development project for one 90-day-period, subject to renewal for two additional 90-day periods.

A holder of a temporary license may be entitled to a temporary license for more than three 90-day periods, but only until the construction or development project is completed and only upon a showing of good cause and the approval of the director. A temporary license may be suspended or revoked by the director for any violation he deems hazardous or a nuisance. However, where the temporary license holder feels that the director has misinterpreted or misconstrued the application of this article, it shall have the right of appeal to the board. In no case will a temporary license be issued until the sites have been evaluated for safety hazards and community impact.

(b) Any applicant desiring a temporary license for operation of a ground level heliport or helistop may make application for such license to the director in such form and upon such terms as the director may prescribe. Prior to the issuance of such license, the director shall be empowered to make any safety inspections which are necessary. Such temporary license shall be for a period not to exceed ten consecutive days. An applicant shall be issued no more than two such temporary licenses a month for a particular location.

(Code 1968, § 9-16.2; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-323. Location of heliports and helistops.

(a) No heliport or helistop, other than a temporary heliport or helistop, may be located within 750 feet of a church, school or residence. All measurements made hereunder shall be in a straight line horizontally from the center of the touchdown pad of the heliport or helistop to the property line of the church, school or residence. If a helistop is to be located on a building, the measurement shall be the sum of the following:

- (1) The number of feet the helistop is located above the ground; and
- (2) The number of feet from a point on ground level where a vertical line from the center of the touchdown pad of the helistop strikes the ground to the property line of a church, school or residence.

(b) No licensed heliport or helistop, other than a temporary heliport or helistop or a heliport or helistop located within a business activity area, shall be located within 2,400 feet of any other licensed heliport or helistop. All measurements made hereunder shall be made in a straight line horizontally from the center of touchdown pad of the heliport or helistop.
(Code 1968, § 9-17; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 83-2040, § 1, 12-14-83)

Sec. 9-324. Noise standard.

(a) Prior to the grant of any license hereunder, other than a temporary license, the director shall take, or cause to be taken, a measurement of the ambient noise level at the proposed location.

(b) For purposes of this section, the ambient noise level shall be defined as the totality of the background noise in a given place and time, composed of sounds from various sources at various distances, exclusive of the noise emitted by the operation of the helicopter in flight. The ambient noise level shall be determined by measurements, taken during the proposed hours of operation, using a conventional or integrating sound level meter, at a minimum of two locations. Such locations shall be the nearest church, school or residence. All measurements shall be taken at the property boundaries closest to the structures and shall be external measurements only.

(c) The noise emitted by the helicopter in operation will be measured at the same locations used to measure the ambient noise level. All measurements shall be made with the helicopter operating under normal operating conditions and while the helicopter is simulating normal operating procedures, and utilizing all operating modes applicable to the site, including, but not limited to, ingress, egress, hover and fly-over.

(d) The director shall then calculate, based on the formula in subsection (e), the effect of the helicopter's operation upon the ambient noise level. The increase of noise level as a result of the operation of the helicopter shall not exceed the ambient noise level by more than two dBA. If the proposed helicopter operation increases the ambient noise level by more than two dBA, then the license shall be denied.

(e) *Formula:*

$$L_{eq} = 10 \log (10^{Lamb/10} + \frac{H \times T \times 10^{L/10}}{SO})$$

Where:

Lamb = Ambient noise level in dBA over the period of operations, without helicopters.
L_{eq} = Ambient noise level reflecting the operational helicopter noise impact.
H = Number of daily helicopter operations where one operation consists of a landing and take-off.
T = Time duration of each helicopter noise operation (seconds).
L = *L_{eq}* of each helicopter operation in dBA.
SO = Number of seconds in period of operations.

(Code 1968, § 9-17.1; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-325. Helicopter facility licensing and appeals board.

(a) *Organization.* There is hereby created a helicopter facility licensing and appeals board consisting of seven members who shall be residents of the city. The positions of the board shall be filled as follows:

Position 1: By a citizen who shall be chairman of the board.

Position 2: By a citizen who is a member of a residential civic association.

Position 3: By a citizen who is a member of the aviation committee of the Houston Chamber of Commerce.

Position 4: By a citizen who is a professional engineer registered in the State of Texas actively engaged in practice as a structural engineer.

Position 5: By a citizen who is a licensed helicopter pilot and a member of a helicopter trade association.

Position 6: By a citizen with qualifications acceptable to the mayor.

Position 7: By a citizen with qualifications acceptable to the mayor.

The legal department may appoint an attorney to represent the board. Such attorney may advise the board on legal matters relative to topics under board jurisdiction. The director, or a designee, shall serve as secretary of the board and shall be responsible for assisting the board to facilitate its actions and proceedings and shall respond to requests of the board in a timely manner.

(b) *Terms of members; appointment; removal.* The mayor is hereby authorized to appoint the members of the board, subject to the approval of the city council. The terms of appointment to the board shall be for a period of two years and until their successors are appointed and qualified. Upon the expiration of the term of each position as stated above, the successor appointee to each position shall serve for a term of two years from the date of their appointment and until their successor is appointed and qualifies. Whenever any position on the board becomes vacant by reason of death, resignation, physical or mental incapacity or removal, the board shall declare such position vacant. Should a vacancy occur on the board, the mayor shall appoint, subject to approval by city council, another qualified person to serve the unexpired term of such vacant position. Any member of the board may be removed at any time by the mayor without consent of the city council.

(c) *Quorum; vote; meetings.* Five members of the board shall constitute a quorum. Affirmative votes of a majority of the members present shall be required to grant a license. No member of the board shall be allowed to abstain from a vote on a license unless such member has a conflict of interest which is disclosed prior to the vote. All other actions of such board shall be taken by majority vote of the members present. Any member absent from four consecutive regular meetings of the board may be removed from such office

by the mayor. The board shall meet at regular intervals, to be determined by the chairman. In any event, the board shall meet within 15 days after receipt of notice of appeal from a decision of the director.

(d) *Compensation.* Each member of the board shall be compensated at the rate of \$25.00 per meeting attended at which a quorum is present; provided, however, that no member shall receive payment for attending any more than two meetings per month. No city employee required to attend a meeting of the board shall be compensated for attending such meeting.

(Code 1968, § 9-18; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-326. Board to issue license.

(a) The director shall forward the application for a license, together with all reports and inspections pertaining to such application, to the board for issuance of the license. At its regular meetings, the board shall hold a hearing on the question of whether a license should be granted. Prior to the commencement of such hearing, the board shall determine the parties to the license proceeding; provided, however, that the board shall not allow party status to a prospective party that is not an interested party as defined under this article and opposed to the grant of the license. The board shall be the sole judge of whether a person, firm or corporation is entitled to status as a party.

(b) At such hearing, the board shall receive oral and written testimony regarding the application. After hearing from all parties, the board shall, by vote of those members present, grant or deny the license.

(c) The board shall grant a license where it finds that:

- (1) The proposed heliport or helistop is not located within 750 feet of a church, school or residence as per section 9-323.
- (2) The proposed heliport or helistop is not located within 2,400 feet of another licensed heliport or helistop.
- (3) The operation of the proposed heliport or helistop will not increase the noise level in the vicinity of the heliport or helistop

more than two dBA above the ambient noise level, as calculated pursuant to section 9-324.

- (4) The proposed heliport or helistop meets or exceeds the requirements of the Construction Code and the Fire Code.
 - (5) The proposed heliport or helistop meets all other requirements of this article.
- (Code 1968, § 9-18.1; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 02-399, § 24, 5-15-02)

Sec. 9-327. Duties of the board.

(a) The board shall grant or deny applications for permanent licenses.

(b) The board shall hear appeals from decisions of the director regarding the grant or denial of a temporary license or suspensions and revocations of licenses and make written findings affirming or reversing the decision of the director.

(c) The board shall have the authority to hold a public hearing regarding the grant, suspension or revocation of any heliport or helistop license application if sufficient public interest is shown that the health, safety or welfare of the public may be jeopardized as a result of the use or continued use of the heliport or helistop.

(d) The board shall submit an annual report to the mayor and city council containing a summary of its actions during the preceding year, together with recommendation for amendments to this article.

(e) The board shall have the authority to receive complaints or allegations concerning the operation of any heliport or helistop and to refer such matters to the appropriate city department or governmental agency for investigation and report.

(f) The board shall adopt reasonable rules for the conduct of its duties, to include procedures for hearings, appeals and all other business conducted by the board.

(g) The secretary of the board shall be responsible for and keep the minutes of the meetings of the board, including correspondence received and sent by the board or at its direction. Such minutes shall be public records, available for inspection by

the public at all reasonable times in the presence of the secretary or any member of the board. The secretary shall provide all parties to a license proceeding prior written notice of the time, place and date of any proceedings related to such license.

(h) The board shall advise, consult and cooperate with the FAA in the location, siting and regulation of heliports and helistops.

(Code 1968, § 9-18.2; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-328. Appeal to city council.

(a) An applicant or other interested party to a decision of the board pertaining to the grant, denial, suspension or revocation of a license may appeal the decision of the board as provided herein. Any interested party may make a written appeal to the city council by filing such appeal in the office of the city secretary within ten days after receipt of written notice containing the findings and decision of the board. The city secretary shall present the written appeal, together with the application, findings, decision and other documents or evidence received by the board, to the city council. Upon receipt thereof, the city council shall set a time and place for the disposition of such appeal and cause the city secretary to give notice thereof to the applicant and any other interested parties.

(b) A decision of the city council shall be effective as of the date it is issued. Every decision of the city council shall be final.

(Code 1968, § 9-18.3; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-329. Duties of director.

The director shall have the power and the authority to administer and enforce the provisions of this article.

(Code 1968, § 9-19; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-330. Inspection of premises and structures.

For the purpose of insuring compliance with the terms and provisions of this chapter, upon presentation of proper identification to the owner,

agent or tenant, the director or his designated assistants or employees may enter upon, inspect and examine at reasonable hours the premises, including the buildings, of any heliport or helistop for which a license has been issued or for which an application for license has been submitted under the provisions hereof, or which is subject to the provisions hereof. Provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, and where the owner, agent or tenant are not available after the director has made a good faith effort to locate same, the director may enter the premises at any time upon presentation of proper identification to any other person on the premises. The director, or a representative of the director, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. When the director or representative is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this article. In applying for such a warrant, the director shall submit to the magistrate his affidavit setting forth his belief that a violation of this chapter exists with respect to the place sought to be inspected and his reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises in question, he shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify the same. Any warrant so issued shall constitute authority for the director to enter upon and inspect the premises described therein. It shall be unlawful to deny the director or a representative access to the premises after a warrant has been issued. Failure to admit the director or representative shall be grounds for the suspension of the license.

(Code 1968, § 9-19.1; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-331. Suspension or revocation of license.

(a) The director shall have authority to order the suspension or revocation of any license issued hereunder for failure to comply with the provi-

sions of this article, the terms and conditions of the application and license, or for any false statements or misrepresentations made by the applicant in the application for a license hereunder.

(b) Prior to revocation or suspension of a license, the director shall notify the licensee in writing of reasons for the proposed order of suspension or revocation and grant such licensee the opportunity to appear before the director at a time and place specified within such notice. Such hearing shall be held not less than five days after receipt of such notice by the licensee. Under extreme conditions where the director determines that life and property are threatened by the operation of the heliport or helistop, the director may suspend the license for up to five days prior to a hearing being held. At the hearing the licensee shall be given an opportunity to show cause why such license should not be suspended or revoked. At such hearing the licensee shall be confronted with any evidence supporting the charges against him and may introduce evidence relating to such charges. If, after the hearing, the director finds that the license should be revoked or suspended he shall, within ten days, issue an order suspending or revoking such license. If the licensee fails to appear for the hearing as provided herein, the order suspending or revoking his license shall become final upon its issuance by the director.

(c) The licensee shall have the right to appeal an order of the director suspending or revoking a license to the board by delivering notice of appeal to the secretary of the board within ten days. The filing of an appeal to the board shall not have the effect of superseding or suspending the order of the director.

(Code 1968, § 9-19.2; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-332. License renewal.

(a) A helistop or heliport license granted under the provisions of this article shall be renewed for an additional six-year term or terms on or before the expiration date of the current license.

(b) Each licensee desiring to renew its license shall make application on forms provided by the director at least 60 days prior to the expiration date of the license. The application shall be accompanied with the following:

- (1) An affidavit, sworn to by the applicant, that it will continue to comply with the terms and conditions of the original application, together with any such changes that have been approved in accordance with this article.
- (2) Payment of the deposit as set out in section 9-318. This deposit is nonrefundable.

(c) The director shall order inspections of the facility for compliance with the Construction and Fire Codes. After these inspections are completed, the license shall be renewed by the director, provided that:

- (1) All inspections are satisfactory;
- (2) No request for modification of the terms of the existing license regarding time of operation, frequency of operations, types of helicopters used or relocation of touch-down pad has been submitted with the renewal; and
- (3) Board review of the renewal application is not required under subsection (d) of this section.

(d) The board shall review the application for renewal and grant or deny such application under the following circumstances:

- (1) Application for renewal has been denied by the director because the facility failed to pass the Fire and Construction Code inspections as required by subsection (c) above;
- (2) The licensee has requested a modification of the terms and conditions of the original application pursuant to subsection (c)(2); or
- (3) There has been sufficient public interest as determined by the board to hold a public hearing as set out in section 9-327 to review the license and vote on its renewal.

(e) The director or the board, as applicable, shall issue a renewal license where it finds that the applicant is in compliance with the requirements of this article and has paid the full amount of the required fee.

(Code 1968, § 9-19.3; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 02-399, §§ 25, 26, 5-15-02)

Sec. 9-333. Existing heliports or helistops.

(a) Any owner or operator of an existing heliport or helistop, as defined in this section, shall not be required to comply with the terms and conditions of this article until six years after the date of final passage of Ordinance No. 83-1558 [December 1, 1983] in order to provide a reasonable time for amortization of the investment in the heliport or helistop.

(b) A heliport or helistop shall be considered to be existing if:

- (1) Such heliport or helistop had a current valid license, other than a temporary license, from the city in effect on July 13, 1983;
- (2) Such heliport or helistop had previously received a license under Ordinance No. 81-2571, other than a temporary license, and had a renewal application for a license, other than a temporary license, pending on July 13, 1983; or
- (3) Such heliport or helistop was located in an area annexed to the city, the effective date of which annexation was December 29, 1982, and was constructed, under construction or in operation prior to such annexation and had an application for a license, other than a temporary license, pending on July 13, 1983.

(c) Any owner or operator of an existing heliport or helistop as defined herein, shall make an application to the director for a special permit. The director shall grant such special permit upon finding the facility qualifies as an existing heliport or helistop under this section. Such permit shall, unless revoked, be valid for so long as such heliport or helistop remains in operation during the amortization period set out in this section. In

the event that such use is abandoned or discontinued by the permittee, then the permit shall expire.

(d) Additional investment may be made in an existing heliport or helistop during such amortization period upon notice to the director so long as the owner or operator of such existing heliport or helistop agrees that any such investment shall not be subject to recoupment, be the basis for any extension of the amortization period, or enlarge or otherwise expand the number of monthly operations at such heliport or helistop.

(e) If improvements upon any lot covered by this subsection are destroyed or damaged as a result of fire, explosion, weather or other act of God in excess of 50 percent of the value of the then-current city tax rolls, such improvement shall not be rebuilt or otherwise reconstructed. Nothing in this subsection shall be construed to prohibit the minor repair or routine maintenance of existing improvements.

(f) By applying for a special permit under the provisions of this article, each applicant agrees that in the event a special permit is granted, the contents of the prior license or license application will become part of the special permit and that the special permit is granted subject to the applicant's compliance with the terms and conditions of the special permit. The applicant further agrees that failure to comply fully with the terms and conditions of the special permit as granted, and as from time to time altered or changed in accordance with this article, including but not limited to failure to comply with the approach and departure routes, shall be grounds for revocation of the special permit.

(g) Any existing heliport or helistop entitled to a special permit under this article shall be restricted under this article only to the extent that:

- (1) The maximum number of monthly operations at such facility may not exceed the maximum number of monthly operations for which such facility was licensed on July 13, 1983, or, if such facility was not licensed at such time, may not exceed the maximum number of monthly operations listed in the license application for such facility; and

- (2) The types of helicopters using the facility may not be noisier types of helicopters than those listed in the license application for the facility; provided, however, that each existing heliport or helistop shall comply with all Fire and Construction Code provisions.

(Code 1968, § 9-20; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 02-399, § 27, 5-15-02)

Sec. 9-334. Expiration of amortization period; treatment of amortized facilities.

Any provision of this article to the contrary notwithstanding, no existing heliport or helistop shall be deemed to be in violation of the requirements of this article subsequent to the expiration of the amortization period contained in section 9-333 until either the opening of a public use heliport with adequate facilities within two miles of such heliport or helistop or the passage of ten years from the date of final passage enactment [December 1, 1983] of Ordinance No. 83-1558, whichever occurs first.

(Code 1968, § 9-20.1; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-335. Subsequent construction.

Any heliport or helistop which is licensed under this article or which was not located within 750 feet of a church, school or residence on [December 1, 1983] the date of final passage of Ordinance No. 83-1558, shall not be placed in violation of this article, or its license, or be required to obtain a special permit, or be prohibited from subsequently being granted a license, due to the subsequent construction or placement of a church, school or residence within 750 feet of the location of such licensed heliport or helistop.

(Code 1968, § 9-20.2; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-336. Annexed areas.

An owner or operator of a heliport or helistop located within territory annexed to the city subsequent to the enactment of this article shall, within 60 days of the effective date of annexation, submit an application to the director for a license

under the terms of this article. In the event that the applicant cannot meet the requirements of this article, then the applicant shall be required to obtain a special permit and shall have six years to comply with such requirements in order to provide a reasonable time for amortization of the investment in such heliport or helistop. Any such applicant shall be governed by the provisions of sections 9-333, 9-334 and 9-335.

(Code 1968, § 9-20.3; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-337. Injunction.

The city attorney is hereby authorized to file a civil suit in a court of competent jurisdiction to prevent the violation of any of the provisions of this article. This remedy shall be cumulative and in addition to any other penalty provisions.

(Code 1968, § 9-20.4; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-338. Exemptions.

(a) None of the provisions of this article shall be applicable to any facility owned or operated by the state or federal government or any political subdivision, department or agency thereof.

(b) The provisions of sections 9-323 and 9-324 of this article shall not be applicable to restricted licenses issued for:

- (1) A primary helistop or heliport operated by a television or radio broadcast station and used exclusively for helicopters engaged in newsgathering functions;
- (2) A secondary helistop or heliport operated by a television or radio broadcast station that also holds a license for a primary helistop or heliport as described in item (1), above, and used exclusively for helicopters engaged in newsgathering functions as a backup site restricted to use when the primary facility is unavailable for safe use because of wind or weather conditions or because of maintenance or construction activities at the primary facility;
- (3) A primary helistop or heliport operated by a hospital and used exclusively for heli-

copters engaged in the emergency transport of medical treatment personnel, patients, body organs or tissue, or medical supplies, equipment or personnel required on an emergency basis; or

- (4) A secondary helistop or heliport operated by a hospital that also holds a license for a primary helistop or heliport as described in item (3), above, and used exclusively for helicopters engaged in the emergency transport of medical treatment personnel, patients, body organs or tissue, or medical supplies, equipment or personnel required on an emergency basis as a backup site restricted to use when the primary facility is unavailable for safe use because of wind or weather conditions or because of maintenance or construction activities at the primary facility.

Provided that a primary restricted helistop or heliport license issued under items (1) or (3) of this subsection must be for a helistop or heliport situated within 500 feet of the hospital building or television/radio news building to be principally served by the helistop or heliport, and further provided that a secondary restricted helistop or heliport license issued under items (2) or (4) of this subsection must be for a helistop or heliport situated within 5,000 feet of the hospital building or television/radio news building to be principally served by the helistop or heliport. Additionally, a secondary restricted helistop or heliport may not be situated within 2,400 feet of any other secondary restricted helistop or heliport licensed hereunder. Such distances shall be measured in a straight line and without regard to intervening objects from the nearest point on the hospital building or the television/radio news building to the center of the touchdown pad of the helistop or heliport and from touchdown pad center to center between helistops and heliports.

In any instance in which the director or the board determines that a reasonable doubt exists regarding the actual distances, then the applicant may be required to obtain and furnish a survey plat showing the distance and the manner of its computation prepared by and bearing the seal of a registered professional engineer or a registered public surveyor. The survey shall be prepared at

the expense of the applicant. An applicant may provide such a survey without a request by the director or the board. If a survey is prepared and furnished in accordance with the provisions of this section and the distances shown thereon equal or exceed the requirements of this section, then the survey shall constitute prima facie evidence of compliance with the distance requirements of this section.

(c) Each person holding a secondary restricted license issued under items (2) or (4) of subsection (b) of this section shall cause to be maintained a log of each helicopter departure and arrival at the secondary restricted facility setting forth:

- (1) The type and federal registration number of the aircraft;
- (2) The name of the pilot, other flight personnel and all other passengers on board, excepting that a hospital may for privacy purposes delete the name of any patient;
- (3) The purpose of the flight;
- (4) The intended destination for departures and the place of departure for arrivals;
- (5) The date and time of the arrival and departure of the aircraft; and
- (6) The specific reason that the primary facility was deemed unsafe and was not utilized as asserted by the pilot.

The log or a true copy thereof shall be kept at the business office of the hospital or television/radio news facility served by the helistop or heliport and shall be made available for inspection by the director or his designee upon one hour's request during regular business hours. On or before the tenth day of January of each year a statement reflecting the total number of landing/takeoff cycles at each facility for which a log was required to be kept in the previous calendar year shall be furnished to the director by the operator.

(d) The provisions of this section shall not be construed to require hospitals and television/radio broadcast stations to obtain their heliport or helistop licenses under this section. They may also apply for and be granted licenses under the general provisions of this article by complying with all applicable requirements of this article

including, but not limited to, the provisions of sections 9-323 and 9-324. Hospitals and television/radio stations that obtain licenses for their primary helistop or heliport on an unrestricted basis under the general provisions of this article may, nevertheless, obtain licenses for secondary restricted facilities, provided that both the primary and secondary facilities meet all requirements of this section. Each application shall state whether it is sought on a restricted use basis as provided in one (1) of items (1) through (4) of subsection (b) of this section or on a general basis under this article. Licenses issued on a restricted basis under subsection (b) of this section shall be limited to the operation of helicopters for the restricted use applied for and maintenance, fueling and training flights associated therewith.

In addition to the restrictions provided in items (2) and (4) of subsection (b) of this section each secondary helistop and heliport facility shall be limited to a total use of 75 landing takeoff cycles in any period of 12 consecutive calendar months. (Code 1968, § 9-20.5; Ord. No. 83-1558, § 1, 12-1-83; Ord. No. 91-1733, § 3, 12-11-91)

Sec. 9-339. Insurance.

No license for a helistop or heliport shall be issued by the board unless the applicant has in effect liability insurance which covers the service provided by the applicant at the location specified in the application.

- (a) The minimum limit for public liability coverage maintained by the applicant shall be a combined single limit of liability for bodily injury and property damages of \$1,000,000.00 per occurrence.
- (b) Such insurance policies shall indemnify the city from all claims including, but not limited to, noise, nuisance, personal injury, death or property damage arising from the use of the helistop or heliport facility for which a license has been issued, and shall meet the requirements set forth herein and shall not be cancellable in less than 30 days' written notice to the director.
- (c) Any cancellation or suspension of the applicant's insurance for which a license

has been issued shall constitute good cause for revocation of the license by the director. All insurance policies shall be issued by an insurance company duly authorized to do business in the state and maintaining an office, or be represented by an authorized agent in the state.

- (d) Proof of insurance may be accomplished by filing with the director for any one of the following:
- (1) A certified original copy of the policy;
 - (2) A photostatic copy of the policy;
 - (3) An abstract of the original policy signed by the issuing company; or
 - (4) A certificate of insurance, including the policy limits, attested to by the insurer.

(Code 1968, § 9-20.6; Ord. No. 83-1558, § 1, 12-1-83)

Sec. 9-340. Transferability.

A license issued pursuant to the terms of this article may be sold, transferred or assigned, provided that the licensee gives written notice to the director at least 30 days prior to any sale, transfer or assignment, and further provided that such licensee is in compliance with the terms and conditions of the license.

(Code 1968, § 9-20.7; Ord. No. 83-1558, § 1, 12-1-83)